

ESTTA Tracking number: **ESTTA729268**

Filing date: **02/24/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	D P I IMPORTS, INC.		
Entity	Corporation	Citizenship	New York
Address	1071 6th Ave New York, NY 10018 UNITED STATES		

Correspondence information	Ben Natter Attorney for Petitioner Natter & Natter 501 Fifth Avenue New York, NY 10017 UNITED STATES ben@natterip.com
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Registration Subject to Cancellation

Registration No	4254879	Registration date	12/04/2012
Registrant	LIN, Chung-Yeng 12F-2, No. 457, Dadun Rd, Nantun Dist. Taichung City, 408 TAIWAN		

Goods/Services Subject to Cancellation

Class 025. First Use: 2011/09/11 First Use In Commerce: 2011/09/11 All goods and services in the class are cancelled, namely: Heated clothing, not for protective purposes in the nature of heated vests, heated pants, heated underwear, heated shoe-pads, heated gloves, heated inner layer gloves, heated scarves, heated shoes, heated boots, heated hats, heated knit face masks, heated earmuffs, heated jackets, heated motorcycle gloves, jackets and rainsuits, heated shawls, heated over coats, heated eyeshades, heated cloaks, heated corsets

Grounds for Cancellation

Fraud on the USPTO	Trademark Act section 14; In re Bose Corp., 580 F.3d 1240, 91 USPQ2D 1938 (Fed. Cir. 2009)
Abandonment	Trademark Act section 14

Attachments	Cancellation0224.pdf(37197 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address

record by First Class Mail on this date.

Signature	//Ben Natter//
Name	Ben Natter
Date	02/24/2016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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D.P.I. IMPORTS INC.	:
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Petitioner,	:
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	:
v.	: CANCELLATION NO.:
	:
	:
Ching-Yeng Lin	:
	:
Registrant.	:
-----X	

To: Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

Petitioner, D P I IMPORTS INC. ("Petitioner"), a corporation organized under the laws of New York, having a place of business at 1071 6th Ave, New York, NY 10018, believes that it is and will continue to be damaged by the above-identified registration and pursuant to 15 U.S.C. § 1064 et seq. and 37 C.F.R. § 2.111, hereby petitions to cancel the same.

As grounds for cancellation it is alleged that:

1. On August 25, 2011, Registrant filed application Serial No. 85/406,790 for registration on the Principal Register for the mark HEATCORE for heated clothing; heated vests; heated pants; heated

underwear; heated shoe-pads; heated gloves; heated inner layer gloves; heated scarves; heated shoes; heated boots; heated hats; heated masks; heated earmuffs; heated jackets; heated motor gear; heated shawls; heated over coats; heated eyeshades; heated cloaks and heated corsets in International Class 25.

2. Application No. 85/406,790 matured into Reg. No. 4,254,879 on Dec. 04, 2012 in connection with heated clothing, not for protective purposes in the nature of heated vests, heated pants, heated underwear, heated shoe-pads, heated gloves, heated inner layer gloves, heated scarves, heated shoes, heated boots, heated hats, heated knit face masks, heated earmuffs, heated jackets, heated motorcycle gloves, jackets and rainsuits, heated shawls, heated over coats, heated eyeshades, heated cloaks, heated corsets.) and is the subject of this cancellation.

3. On information and belief, Registrant is an individual of Taiwan with a principal place of business at 12F-2, No. 457, Dadun Rd, Nantun Dist. Taichung City TAIWAN 408.

4. On October 15, 2012, Registrant submitted a declaration to the USPTO in which he stated that the mark had been in use in commerce since September 11, 2012, in connection with all of the following goods:

“Heated clothing, not for protective purposes in the nature of heated vests, heated pants, heated underwear, heated shoe-pads, heated gloves, heated inner layer gloves, heated scarves, heated shoes, heated boots, heated hats, heated knit face masks, heated earmuffs, heated jackets, heated motorcycle gloves, jackets and rainsuits, heated shawls, heated over coats, heated eyeshades, heated cloaks, heated corsets”.

5. Upon information and belief, Registrant is not using, and has never used, the mark HEATCORE in connection with the following goods:

Heated clothing, not for protective purposes in the nature of heated vests, heated pants, heated underwear, heated shoe-pads, heated gloves, heated inner layer gloves, heated scarves, heated shoes, heated boots, heated hats, heated knit face masks, heated earmuffs, heated motorcycle gloves, rainsuits, heated shawls, heated over coats, heated eyeshades, heated cloaks, heated corsets.

6. Upon information and belief, Registrant is not using, and has not used the mark HEATCORE in commerce within the past three consecutive years and the mark is abandoned.

7. Upon information and belief, when on October 15, 2012 Registrant submitted the Statement of Use to the USPTO indicating that the mark was in use in commerce in connection with the goods now listed on the Registration, such information was false.

8. Upon information and belief, Registrant misrepresented the nature of its use in commerce of the mark HEATCORE at the time he submitted the Statement of Use and continued to prosecute the trademark application that led to the registration that is the subject of this cancellation.

9. On information and belief, Registrant procured the aforesaid registration, Reg. No. 4,254,879 by false means and/or by knowingly and willfully making false and/or fraudulent declarations and representations aforesaid.

10. Upon information and belief, said false statements were made with the intent to induce the USPTO to grant said registration, and reasonably relying upon the truth of said false statements, the USPTO did, in fact, grant said registration to Registrant.

11. Upon information and belief, Registrant knew, at the time the Declaration of Use was filed, that it contained false statements.

12. Petitioner is using and has used the mark HEATCORE in connection with clothing and Registrant, with knowledge that said registration Reg. No. 4,254,879, was procured through fraudulent statements and has been abandoned has sent threatening and harassing communications to Petitioner's customers.

13. Continued existence of Registration No. 4,254,879 creates a serious cloud on Petitioner's continued right to use its HEATCORE mark.

14. Continued existence of Registration No. 4,254,879 dilutes the capacity of Petitioner's mark to identify goods originating from Petitioner.

15. Continued existence of Registration No. 4,254,879 for the mark HEATCORE, will and will presumptively deprive Petitioner of the goodwill associated with its HEATCORE mark and cause irreparable harm, injury and damage to Petitioner.

Dated: New York NY
February 24, 2016

Respectfully submitted,
NATTER & NATTER

Attorneys for Petitioner
501 Fifth Avenue
New York NY 10017
Tel: (212) 840-8300
email: ben@natterip.com

By /Ben Natter/
Ben Natter

CERTIFICATE OF MAILING

It is hereby certified that on this 24th day of February, 2016, a true and correct copy of the within Petition for Cancellation is being mailed, first class, postage prepaid to the Registrant's correspondence address as follows:

Charles E. Baxley
Hart, Baxley, Daniels & Holton
90 John Street, Suite 403
New York, NY 10038

/Ben Natter/